

CITY OF BELMONT
PLANNING COMMISSION

ACTION MINUTES

WEDNESDAY, NOVEMBER 8, 2006 7:00 PM

Chair Parsons called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Parsons, Horton, Frautschi, Mayer, McKenzie, Mercer, Wozniak
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Associate Planner Walker, Acting City Attorney Greg Rubens (ACA), Recording Secretary Flores (RS).

2. AGENDA AMENDMENTS - None

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR

4A. Minutes of October 3, 2006

MOTION: By Commissioner Frautschi, seconded by Vice Chair Horton, to accept the Action Minutes of Tuesday, October 3, 2006, as presented.

Ayes: Frautschi, Horton, Mayer, McKenzie, Mercer, Wozniak, Parsons
Noes: None

Motion passed 7/0

5. NEW BUSINESS

5A. Request for Extension of Approval –1520 El Verano Way

CDD de Melo summarized the staff memorandum, concluding that staff could make the findings to recommend approval of the extension request.

Commissioner Wozniak asked if the geotechnical conditions referred to in the letter from the applicant would be severe enough to warrant a re-review of the whole project by the Planning Commission. CDD de Melo responded that in staff's opinion it would not. It will look at only improved foundation design issues and will in no way affect the exterior look of the addition or anything pertinent to the Planning Commission's findings. In addition, as part of the building permit plan check process, the geotech information is cross-checked by staff to make sure that the design recommendations are appropriate for the home.

MOTION: By Commissioner McKenzie, seconded by Commissioner Mayer, resolving that the Planning Commission extend the approval of the Single-Family Design Review to allow construction of a 610-square-foot two-story addition for an existing 2,559 square-foot single-family residence at 1520 El Verano Way to October 18, 2007, subject to conditions in the attached Exhibit "A" (Appl. No. 2005-0044)

Ayes: McKenzie, Mayer, Frautschi, Mercer, Wozniak, Horton, Parsons
Noes: None

Motion passed 7/0

CDD de Melo stated that this is not an appealable action.

(CDD de Melo noted later in the meeting that this item CAN be appealed to City Council within 10 calendar days).

6. PUBLIC HEARINGS:

6A. PUBLIC HEARING – 2884 Wakefield Drive

To consider a Tentative Parcel Map, Conditional Use Permit, and Single Family Design Review to create two parcels from a 17,712 square foot site and construct a new two-story 2,660 square foot single family home on the new lot. The proposed minor subdivision would create a 10,110 square foot parcel containing an existing single family residence. The proposed new single family dwelling would be located on the smaller 7,602 square foot parcel. (Appl. No. 00-1055)

APN: 045-441-540; Zoned: PD (Planned Development) (Continued from February 7, 2006 Planning Commission Meeting)

CEQA Status: Recommended Categorical Exemption per Section 15303;

Applicant/Owner(s): Marvin and Mitra Bergloff

CDD de Melo summarized the staff report, recommending denial based on their analysis and required findings.

Chair Parsons questioned the difference in the lot dimensions shown in the staff report from that on the first page of the drawings. CDD de Melo later explained that the dimensions in the staff report were arrived at by taking an average of the front and rear portions of the lots because the lots are not perfectly rectangular. He also explained why the 5' side yard setback from the existing dwelling is consistent with requirements.

Commissioner Wozniak asked for clarification of the Detailed Development Plan (DDP) analysis on page 6. It appeared to her that this proposal is for a denser development than allowable per the DDP. CDD de Melo explained that density was calculated in 1971-72 with open space included as part of the subdivision and may be slightly different than what they would calculate today.

Vice Chair Horton asked if there are any empty lots in the subdivision. CDD de Melo replied that there is not a vacant lot within the 70 – they are all improved with single-family dwellings – and there have been no further subdivisions to create additional units since conception and construction of the original subdivision.

Commissioner Mayer asked how many subdividable lots there are in the subdivision, and referenced a letter from a neighbor asking if his lot on Wakefield is subdividable. CDD de Melo responded that Wakefield is not part of this planned development, and that the whole mechanism for creating a subdivision is through the process under discussion. The only two lots in the planned development that have large enough area would be this lot at 2884 and the one at 2888.

Marvin Bergloff, owner with his wife of the subject site, stated that they have been contemplating this subdivision for some time and have made many changes to meet the DDP requirements. He made the following points:

- Hoping to come to some sort of conclusion after many delays.
- According to the title report, the unit at 2888 above him is on a 15,000 sq.ft. lot, so the only lot that can be subdivided to meet the DDP requirements is his.
- 2888 has 14' to 16' retaining walls adjacent to the property that were approved by the City as a Variance in 1978.
- He could use retaining walls vs. the driveway bridge if that would better suit the approval of the project.
- The owners of 2888 have complained – they have the 1400 sq.ft. adjacent open space next to their property and his driveway encroaches upon that property as do the two buildings above on the corner.
- 2888 is also the only house that is perpendicular to Wakefield – all the other homes face the street. It has a long driveway that goes to the house which is out of character of the rest of the homes in that development and the driveway encroaches upon the City property in the open area.
- The driveway bridge would be the first of its kind but retaining walls would not be unique because the house above has a vast array of retaining walls that have been approved and signed off by the City.

- There are approximately 6 homes below on Wakefield that have walkway bridges to their homes and there are many others. He does not believe it would be out of character for this area. The driveway bridge would not be visible driving by the property because it is on a slope. The only person who would be able to see the driveway bridge or retaining walls would be any future owner of his adjacent property.
- It would not be a nuisance of any sort and he believes it would be more appealing with a house there than the fencing, as it would allow more people to see the open area.
- He did not want to change the DDP or rezone it, he is asking for a Variance and he is willing to go back to the retaining walls if the driveway bridge is an issue.

Responding to Chair Parsons' question about the height of the bridge, CDD de Melo stated that the previous proposal was to have retaining walls up to 12' in height; from ground to the connecting point at the underside of the bridge would be 11' to 12' high at most.

Chair Parsons opened the public hearing. No one came forward to speak.

MOTION: By Commissioner Frautschi, seconded by Commissioner Wozniak, to close the public hearing. Motion passed.

Commissioners commented as follows:

Commissioner Mercer:

- Looked for guidance to the original 1972 DDP which stated that the total number of units shall not exceed 70 units and that the minimum lot dimension are as shown on the drawing.
- When this was all open hillside, this was a contentious issue and a lot of residents in Belmont were rather upset that this development was being allowed, and as the development process went on the City arrived at a DDP that called for 70 units at specific lot dimensions. She views this as the City's covenant with all of the residents of the City.
- 30+ years have passed and she looks to guidance from changes that have happened. Voters and residents have directed the Planning Commission with the passage of Measure F that there was to be no change in zoning or development standards that would increase the density of development on the hillside.
- With those two factors she had a difficult time justifying an additional dwelling on this lot.
- If they were to ignore the PD and just regard this as R-1A, the minimum development standards for R-1A are to have a 9600 sq.ft. lot and this is not a 9600 sq.ft. nor could it be made into two 9,600 sq.ft. lots because the total is only 17,000 square feet.
- The new slope density guidelines, with this property being a slope of 25%, would dictate a minimum lot size of 19,000 sq.ft., which again indicates that this is not a dividable lot.
- She was unable to make the finding that this property is developable at all in terms of a second lot and a second dwelling.
- There's nothing in the DDP notes that prevents extensive development of this lot; the floor area ratio can extend all the way up to 3.5 so this lot could be built into an extensive 4,500 sq.ft. house with a swimming pool, cabana, sports court and putting green and created into a really desirable property.

Commissioner Mayer:

- The Tentative Parcel Map (TPM) analysis at G.1 says that the TPM conforms to the approved DDP and shall constitute approval of any and all deviations.
- He learned in talking with CDD de Melo that the original Conceptual Development Plan (CDP) was for 72 units but at some point it was reduced to 70, and the question is why. It seems to him there was reasoning behind that and the reason might well have been that some of the lots did not lend themselves to the size that would allow that number to be implemented.
- He put a lot of credence in the DDP and believed that they have to start there.
- The portion of the lot being developed is an awkward area and would create a home that is wedged in lengthwise.
- The soils report indicates some alarming information regarding soil conditions of that area requiring all sorts of complicated reinforcements.
- Had a difficult time dealing with a subdivision on this property.

Commissioner Wozniak:

- Agreed with Commissioner Mercer's analysis.
- In addition to the findings that staff has already made, it is too dense for this development. It was set up as a development at a certain density and that's the way it should stay for the reasons mentioned already.

Commissioner McKenzie:

- Agreed with everything that has been said.
- This development 34 years ago was planned and approved and set forth on the basis of 70 lots and the conditions existing in this development and there obviously was a strong reason at that time why it was 70 and not 72 and there was a strong reason why this particular lot at 17,000 sq.ft. was not considered a buildable lot at that time.
- He did not think it made much sense to talk about new designs, a driveway bridge, and retaining walls when the fundamental issue is that it does not fit the plan. It is outside of the criteria.

Vice Chair Horton:

- Agreed with most everything that had already been said.
- When every one of these properties was sold the persons buying them received the DDP and not only did this applicant know that there was a restriction on subdivision, all of the other 69 people believed that what was there would be there and nothing more. She remarked that people don't get to do whatever they want when buying into a Planned Development and should not buy into one if they want to do all kinds of special things or subdivide their property – it simply is not allowed.

Commissioner Frautschi:

- Expressed sorrow to Mr. Bergloff that he had to go through this process, and hoped that they could meet his wish to come to some sort of conclusion at the meeting.
- Did not disagree with anything that had been said.
- Regarding the lot on 2888, he believed the house was located the way it is because at the time it was developed in 1978 it was the most advantageous so that they could capture the view and those were the standards that applied at that time. Also, they might have a 12' retaining wall but he wanted to let Mr. Bergloff know that the standards that were applied when that was built have changed and are very different now. Except that a DDP is kind of written in stone – they wrote their own rules and those were the rules they agreed to abide by.
- Thanked staff for the report. He thought it was a thorough report that hangs a lot on the driveway bridge, which he had no disagreement with, but he felt the other Commissioners have let them know that the true issue is about the original rules that were laid down for this project.
- He felt that the issue was most clearly stated by one of the people who opposed the project in the sentence: "Subdividing this or any other parcels in this area is environmentally irresponsible and simply a step backward." He believed that the City says that, he says that, the Commission says that, and he supported staff's report denying the project based on their lack of findings, particularly for the final number 1 where, first and foremost, he was unable to make the findings for the TPM.

Chair Parsons

- Agreed with everything that had been said, especially with respect to the City's recent adoption of slope density regulations, which indicates that it is the consensus of the city by vote that they do not want to see more development on hillsides.
- The development had a certain number of lots proposed with it – they set the rules when they developed it and when the applicant bought it he knew what the rules were when he got his deed.
- To subdivide this property would violate what the city's feelings are and what was established by the previous Commission that voted on this development.
- With respect to the property itself, he believed that a 53' lot would probably be the smallest frontage of any house on the street, which would be out of character, and that the bridge would be out of character. It's a bad project in a bad location.
- If he had a lot that big he would be thinking about making the house bigger and putting in a lot of amenities.
- The issue was whether the Commission wants to approve a TPM, CUP and a Single-Family Design Review and he could not approve the TPM.

Commissioner McKenzie commented that any suggestions that Commissioner's make about design improvements for a driveway bridge or retaining walls would be a disservice – it's just leading the client along because that's not the issue.

CDD de Melo made a point of clarification in reference to lot 2888 Wakefield. It's been discussed that there are retaining walls for this home but it does not utilize retaining walls or a driveway bridge to provide access to their lot. This application would be the first of its kind that would have that kind of an access need based upon the difficult slope considerations for the lot as it transitions from the street to the proposed dwelling

site. Chair Parsons added that it is not only true for this DDP but for all of the homes up in the Hallmark area, including those that are not DDP's – they have flat pad entries.

MOTION: By Commissioner Mercer to adopt a resolution denying a Conditional Use Permit, Tentative Parcel Map and Single Family Design Review at 2884 Wakefield Drive (Appl. No. 2000-1055) based on the conditions of the original DDP limiting 70 dwellings and the extraordinarily difficult building requirements of the lot, which would require either a 12' retaining wall or a driveway bridge, which are both inconsistent with the current development in the area.

At CDD de Melo's suggestion, the motion was abandoned in favor of having staff return to the next meeting with a revised resolution that will include the Commission's comments regarding the original DDP, the extraordinary site conditions that make it difficult to construct a dwelling, and the City's recent policy change relative to slope density. He noted that this item will be on the November 21st Consent Calendar and that the ten-day period for appealing this decision will start after that meeting.

By a unanimous show of hands, the Commission directed staff to prepare a more detailed resolution of denial consistent with staff findings and Commissioners' comments for adoption at the meeting of November 21, 2006.

6B. PUBLIC HEARING – 2808 Hallmark Drive

To consider a 599 square foot addition to an existing 2,785 square foot single family residence, resulting in a total of 3,384 square feet that is below the zoning district permitted 3,500 square feet for this site. (Appl. No. 2006-0076)

APN: 045-403-010, Zoned: R-1A (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15301, Class 1;

Applicant: Alpiteus W. Jessup, II

Owners: Laura Draxler and John Sadler

AP Walker summarized the staff report, noting a correction that there was a 60 sq.ft. addition approved as part of the building permit process in 2005, which was completed and finalized in January 2006. Staff recommended approval of the project and adoption of the attached Resolution and the Conditions of Approval attached.

Commissioner Frautschi clarified with AP Walker that the recent 60' addition is included in the 2,785 sq.ft. existing floor area figure.

Chair Parsons opened the public hearing – no one came forward to speak.

MOTION: By Commissioner Frautschi, seconded by Vice Chair Horton, to close the public hearing. Motion passed.

Alpiteus Jessup, architect for the project, was available to answer questions.

Responding to Commissioner's questions, Mr. Jessup confirmed that there will not be a window on the first floor where the fireplace is being removed and they are considering putting a window by the front door.

MOTION: By Vice Chair Horton, seconded by Commissioner McKenzie, to adopt the Resolution approving a Single-Family Design Review for 2808 Hallmark Drive (Appl. No. 2006-0076).

Ayes: Horton, McKenzie, Mayer, Mercer, Wozniak, Frautschi, Parsons

Noes: None

Motion passed 7/0.

Chair Parsons stated that this item can be appealed to City Council within 10 calendar days.

Amendment to Item 5A. CDD de Melo amended the statement above that Item 5A was not appealable. He read from Section 15.8, which allows for an appeal process from "any action, decision, ruling, judgment or order of the Commission as set forth in this ordinance may be taken by any person or persons aggrieved or affected jointly or severally.." The action taken by the Commission to extend the single-family review approval for 1520 El Verano Way can be appealed and CDD de Melo agreed to convey that to the applicant the following day.

7. REPORTS, STUDIES AND UPDATES

CDD de Melo provided the following verbal updates:

A. \$2.50 Cleaners - 678 Ralston Avenue

An Administrative Design Review application was received the previous day for their signs that were illegally installed. They will probably be put on a payment plan for the \$3000 to \$5000 code enforcement fees and fines that are due. An item on landscaping can be added to the compliance section of the Design Review.

B. 2700 Monserat

The unpermitted 1,400 sq.ft. of additions to this home that were denied by the Planning Commission and the City Council are currently in litigation with the City. The owners have recently submitted building permit plans to remodel the 2,500 sq.ft. legal floor portion of the dwelling. They have received plan check comments from staff on the remodel, and there is a punch list of about 35 items that need to be addressed.

Responding to Commissioner Frautschi's questions, discussion ensued regarding the legalities of 1) approving permits for a portion of the house when a large portion of the house is in litigation, and 2) the owner's right of occupancy. ACA Rubens clarified that, ultimately, if their writ is unsuccessful there would be an enforcement action to have the unpermitted square footage removed but the owners must be allowed to exhaust their remedies under the law. The courts are going to decide the legal rights to that space.

C. 2626 & 2613 Prindle

CDD de Melo had provided Commissioners with an email that he had forwarded to City Council in response to Council's request for an update on these two properties. 2626 Prindle has some general nuisance issues relative to unfinished front yard landscaping and various stages of reconstruction, and is under the code enforcement process. 2623 has a failing wall that is adjacent to the City's public right-of-way. Staff has had a difficult time working with the applicant and getting some civil engineering firms on board to provide for completion of this failing wall. Public Works, Planning and Building Divisions are working on a contingency plan in case this wall fails further, and will monitor it throughout the winter season.

D. Slope/Density Ordinance

In response to the Commission's request at the last meeting, CDD de Melo provided the ordinance that was adopted by the City Council and became law on October 26th and briefly discussed its contents. Chair Parsons asked if there is any thought about extending it to include agricultural and institutional zones. CDD de Melo replied that since Proposition 90 did not pass, he would not be surprised if sometime in the future this ordinance will have another go-round relative to its applicability and whether to include other zoning districts for consideration of the slope density requirement.

Motel 6 had not been placed on the agenda because he did not have much to report, but in the last few days he learned that there has been a significant decrease in service calls from September to October, but if it does not get dramatically better it may be back on the agenda for more serious action.

Reminded Commissioners who have not completed the AB1234 training to see him or the City Clerk for information. Confirmed that Commissioners who started serving after the first of the year have one year from the date they came on board to complete the training.

Gave a summary of projects that will be coming before the Commission in the not too distant future, and suggested that Commissioners come by the Planning office for a preview of several of the larger projects.

Since the City is considering closing down City Hall for the week between Christmas and New Years Day, suggested cancelling the January 2, 2007 meeting as it would be extremely difficult to put together a Planning Commission packet for that meeting. He will put an agenda item on the November 21st meeting that the January 2 meeting is cancelled.

Regarding the Grand Boulevard streetscape/landscaping project, CDD de Melo stated that there will be a stakeholders meeting hopefully by the end of the year but certainly right after the beginning of the year.

Commissioner Wozniak:

- Asked for the status of the completed project review. CDD de Melo stated that he did not believe there had been any Certificates of Occupancy issued on projects that the Commission has reviewed and approved, but that the Building Division is on notice to give him a weekly report of all COC's issued.
- Noticed that Coffee Berry trees are dying by the Notre Dame playing field on Ralston Avenue in front of the berm. CDD de Melo responded that they are to be replaced, 22 Coast Redwoods will be planted along Ralston and some Cedars adjacent to the theatre.
- Reported that there is still a lot of noise from Carlmont; the loud speakers are playing rock music in the morning. She said that other neighbors complain about it and will probably be taking some kind of action if it does not improve.
- Had made a complaint to the head of the IT division about the inconvenience of logging into the City's email account and the inability to automatically forward it to personal accounts that they use more frequently. She was told that this policy is at the direction of the City Attorney. Chair Parsons and Vice Chair Horton concurred with the complaint and would like to be able to either go to a bookmark or have automatic forwarding to their most frequently used email addresses. ACA Rubens will check with CA Zafferano for clarification of this policy.

Commissioner Mercer:

- Asked for an update on the progress of the Public Works Department's sidewalk plan. Chair Parsons stated that he had received a report on the condition of the trees and will forward it to the other Commissioners.
- Announced that the Belmont 4H Club had received a grant to plant trees in the medians around the parking area at the Belmont Sports Complex, and will be planting them on Sunday November 19th from 9 a.m. to noon. The Parks Division will be sure that the sprinklers are functional, will dig the holes, and is providing a truckload of woodchips.

Commissioner Frautschi:

- Concerned about the Ralston project above Safeway where they've partially removed the City retaining wall and are moving so slow. The rainy season is coming and he is did not see how they can get the retaining wall built. He said that last winter and it had a wall and now there's no wall so he is really concerned about a possible mudslide that could block Ralston.
- Would like to see an enhanced spam filter on the City's email site.
- Shocked to learn of the vandalism at the Library and suggested that if Commissioners had any suggestions they speak before Council. His suggestion would be security cameras in the teen and fireplace areas.
- Believes that the Commission needs to follow an initiative to deal with plantings and trees along Alameda and Ralston. He stated that at the end of Avon four huge trees died and were removed and the City has no recourse to encourage the applicant to replant them, and it has totally changed the character of that section of Ralston. CDD de Melo agreed to add an item to the agenda under Reports, Studies and Updates regarding trees on the Ralston scenic corridor and Alameda.

Chair Parsons

- Chair Parsons asked if the "Welcome to Belmont Sign" at the top of Ralston will ever be replaced. It fell down over a year ago and has become a safety hazard.

CITY COUNCIL MEETING OF TUESDAY, NOVEMBER 14, 2006

Liaison: Commissioner Mercer

Alternate Liaison: Commissioner Frautschi

8. ADJOURNMENT:

The meeting was adjourned at 8:35 p.m. to a regular meeting on Tuesday, November 21, 2006, at 7:00 p.m. at Belmont City Hall.

